IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 20949 of 2003

Between:

Smt. G.Vijayalakshmi W/o G.V. Dharama Rao (late),
R/o.2-2-194, Nehrunagar, Near Naim Nagar,

Hanamkonda, Warangal District, presently

R/o.Flat No.S-2, Sadanand Enclave, Kachiguda, Hyderabad

..... PETITIONER

AND

1. The Chairman, Indian Oil Corporation,

Regd. Office G-9, Ali Yavarjung Marg, East Bombay.
2 The Deputy General Manager, Marketing, India Oil Corporation

Ltd., Southern Region, 139, Nungambakkam Ring Road, Madras.
3 The Chief Divisional Manager, Indian Oil Corporation Ltd.,

Divisional Office, 126, S.D.Road, Secunderabad.

4. The Senior Divisional Manager,

Indian Oil Corporation Ltd., Hyderabad.
5 The Manager (Retail),

Indian Oil Corporation Ltd., Secunderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus directing the respondents to transfer the dealership of petrol bunk under the name and style of Sri Bhagwan Satya Sai Filling Station, at the property bearing 16-11-T/7/1, admeasuring 695 sq. yards in Sy.No.80(old) 167(New), Teegalguda Village Main road, Moosaram Bagh Bridge, Amberpet, Hyderabad in the name of the petitioner by virtue of will executed by the deceased Sunitha Gande who was the

original allottee of Dealership by allowing the Writ petition with costs.

Counsel for the Petitioner: MR. T.BHEEMSEN

Counsel for Respondents: MR. P.V.SANJAY KUMAR (STANDING COUNSEL INDIAN OIL CORPORATION)

The Court made the following:

-

-

-

-

-

ORDER:

-

One Smt. Sunitha Gandhe, daughter of the petitioner, was allotted a Retail Petroleum Outlet in September, 1993 under the Scheme meant for Physically Handicapped persons. The daugher of the petitioner started Petroleum Outlet in the name and style of Sri Bhagavan Satya Sai Filling Station at Moosaram Bagh bridge, Amberpet, Hyderabad. Smt. Sunitha died on 28-06-2001. The petitioner thereafter made an application to the General Manager of Indian Oil Corporation, Hyderabad, stating that her daughter executed a Will on 23-06-2001 bequeathing her rights in the Petroleum Outlet and requested the General Manager to transfer the Retail Petroleum Outlet dealership to the petitioner. As no action was taken, the petitioner filed the present writ petition seeking a direction to the respondents to transfer the dealership of Sri Bhagavan Satya Sai Filling Station to her.

The matter is heard at the stage of interlocutory orders as the submissions for the purpose of disposal of main writ petition as well as the miscellaneous petition are the same. Heard the learned Counsel for the petitioner and the learned Standing Counsel for Indian Oil Corporation.

The Government of India, Ministry of Petroleum and Natural Gases, issued policy guidelines on 15-01-1999 for reconsideration and renewal of dealership in cases of death of the original allottee/dealer. These policy guidelines were noticed by this Court in **Nalam Pullarao v. IBP Company Ltd., Kadimopthavaram Village, G.Kondur Mandal, Krishna Dist. and others**. Clause-A(6)(c) and Clause-2 of the guidelines read as under:

"In case of death of allottee (dealer), dealership can be reconstituted in favour of legal heir(s). If legal heir(s) expresses unwillingness to carry on business, the dealership will be reconstituted with the remaining partners after obtaining NOC from the legal heir(s) and after considering any 'will' made by the deceased allottee."

"2. Even after empowering the oil companies to decide cases of resitement, reconstitution and revival as per above dispensation, there may still be some deserving cases not strictly covered by the guidelines. The deserving cases of resitement,

reconstitution and revival which are not strictly covered under the above guidelines may be referred by the oil's companies to this Ministry for decision."

It is very plain that in the case of death of allottee (dealer), the dealership can be transferred to the legal heir including a legal heir in whose favour the rights in the licence are bequeathed by the deceased allottee in the Will. Therefore, there cannot be any objection for the competent authority to consider the request of the petitioner based on the Will. Even if rival claim is put-forth for the dealership, it is always open for the competent authority to consider such rival claim as well as the Will produced by the petitioner and decide the matter.

Therefore, the writ petition is disposed of in the above terms and this exercise may be completed within a period of six weeks from today. There shall be no order as to costs.

_____

V.V.S. RAO, J

November 18, 2004.

Ak

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Chairman, Indian Oil Corporation,

Regd. Office G-9, Ali Yavarjung Marg, East Bombay.

2 The Deputy General Manager, Marketing, India Oil Corporation

Ltd., Southern Region, 139, Nungambakkam Ring Road, Madras.

3 The Chief Divisional Manager, Indian Oil Corporation Ltd.,

Divisional Office, 126, S.D.Road, Secunderabad.

2. The Senior Divisional Manager,

Indian Oil Corporation Ltd., Hyderabad.

5 The Manager (Retail),

Indian Oil Corporation Ltd., Secunderabad

6 Two CD copies.